

1       **HEARING ON PROBLEMS FOR MILITARY AND OVERSEAS VOTERS:**  
2       **WHY MANY SOLDIERS AND THEIR FAMILIES CAN'T VOTE**

3                               - - -

4                               WEDNESDAY, MAY 13, 2009

5   United States Senate,  
6   Committee on Rules and Administration,  
7   Washington, D.C.

8  
9               The committee met, pursuant to notice, at 10:05 a.m., in Room SR-301, Russell  
10      Senate Office Building, Hon. Charles E. Schumer, Chairman of the committee, presiding.

11               **Present:** Senators Schumer, Nelson, Chambliss and Roberts.

12               **Staff Present:** Jean Bordewich, Staff Director; Jason Abel, Chief Counsel;  
13      Veronica Gillespie, Elections Counsel; Adam Ambrogi, Counsel; Brenna Allen,  
14      Professional Staff; Lynden Armstrong, Chief Clerk; Justin Perkins, Staff Assistant; Mary  
15      Jones, Republican Staff Director; Shaun Parkin, Republican Deputy Staff Director; Paul  
16      Vinovich, Republican Chief Counsel; Michael Merrell, Republican Counsel; and Rachel  
17      Creviston, Republican Professional Staff.

18  
19                               **OPENING STATEMENT OF CHAIRMAN SCHUMER**

20  
21               **Chairman Schumer.** The hearing will come to order and good morning to  
22      everyone and thank all the witnesses for coming and I want to thank my colleagues for  
23      being here.

24               Saxby Chambliss, has played an active role and I know is very interested in this  
25      issue, and I want to say we hope to get something done in a bipartisan way on this issue  
26      because this is truly a bipartisan problem.

27               And my good friend Ben Nelson, who wears really two hats. I am proud he is a  
28      member of our Committee, but he is also Chairman of the Armed Services Subcommittee  
29      on Personnel and Readiness and I know he cares a lot about this issue and he is a great  
30      legislator and gets a lot done so thanks for coming, Ben.

31               We will have opening statements from my colleagues after I finish.

32               Every couple of years, especially on those years ending in even numbers, right

33 before election time there is a large push to improve the process of military voting.  
34 However, as soon as the election is over, too often we forget to continue to push for  
35 improve voting rights for military voters.

36 Let me say something clearly so everyone can hear it. Not this year. We have  
37 convened this hearing to uncover some of the major problems facing military and overseas  
38 voters and we hope to do whatever is necessary to clear it up so it does not happen in our  
39 next federal election in 2010.

40 Registration deadlines, notary requirements, lack of communication, mail delays,  
41 poor address information and state laws that put in place untenable mailing dates are all  
42 severe problems. We need to actively evaluate these problems so we can work in a  
43 bipartisan way to find solutions to the problems.

44 Today we will hear about that several studies that show how severe the problem is.  
45 It is more severe I think than most people realize. One of those is a new study we  
46 commissioned from the Congressional Research Service.

47 While the 2008 Election Assistance Commission post-election report will be  
48 released a few months from now, we wanted to see right now an initial snapshot of how  
49 voting went in the states with the largest number of military voters during the 2008  
50 election.

51 We asked the Congressional Research Service to contact some of the largest  
52 military voting states and get initial data on the number of overseas ballots requested and  
53 the number of overseas ballots that were never eventually counted. We were able to get  
54 preliminary data in advance of the complete survey to be released later this year.

55 Here is what the data showed. It showed that up to 27 percent of the ballots  
56 requested by military and overseas voters were not counted and that is an astounding  
57 number that it should say to all of us, we can do a lot better.

58 Those are just the voters who actually were able to get their requests for ballots  
59 answered. There are probably many more who did not.

60 Studies from previous elections show that the military and overseas voters have one  
61 of the lowest level of recorded votes of all groups because it is so hard for them to vote.

62 And as you can see from the chart behind me, 63 percent of local election officials  
63 reported receiving completed ballots after the deadline had passed so they do not count.

64 The problem is compounded when 39 percent of military and overseas voters

65 receive their ballots too late to return them in time. They request them in a timely way, but  
66 by the time they get the ballot, they cannot send it. The deadline has passed for last day of  
67 absentee voting or whatever.

68 This number from this past election is up 14 percent from 2006 so the problem is  
69 not getting better. It is getting worse.

70 It is unacceptable that in the age of global communications many active military,  
71 their families and thousands of other Americans living, working and volunteering in  
72 foreign countries cannot cast ballots at home while they are serving overseas.

73 Imagine the frustration the soldier feels when he or she is stationed in Iraq or  
74 Afghanistan and when their ballot finally arrives, it is too late. Here they are risking their  
75 lives for us. They take that extra step to vote. They are not at home. They obviously  
76 have many other things on their minds. They request a ballot in a timely way and it gets  
77 there too late to vote. Imagine how that feels. They can fight and put their life on the line  
78 for their country, but they cannot choose their next commander-in-chief.

79 To put a human face on these numbers, I want to share a letter describing some true  
80 stories to the Overseas Vote Foundation during the 2008 election.

81 One military voter wrote, "I submitted two registration forms via standard mail in  
82 January 2008 to Texas and received no confirmation that my registration was received or  
83 processed. I did not receive ballots for the primaries or the general election."

84 Another soldier, this one from Alaska, said, "I hate that because of my military  
85 service overseas, I was precluded from voting."

86 Let me just repeat that because they just hits you at home.

87 "I hate," and this is a soldier serving us, "I hate that because of my military service  
88 overseas, I was precluded from voting."

89 The letters continues.

90 "Of all people, deployed service members should have a guaranteed ability to vote  
91 in the presidential election. The state simply made it impossible for me to vote."

92 One final voter was able to get a ballot but was unsure whether it was ever counted.

93 "I called my hometown voting office to get assistance," he wrote. "Every time I  
94 called they told me something different. I ended up doing three different things just to get  
95 my ballot and then I sent it in a week before the deadline. I am hoping that my vote was  
96 counted."

97           In each of these stories, you can hear the effort these service men and women made  
98 to vote, calling several times, submitting their ballots early, but to no avail. This is  
99 unacceptable and something we should not let continue.

100           So we are here today to learn more about the source of these problems. The report  
101 of CRS clearly indicates the problem exists and is growing. The hearing is devoted not to  
102 outlining the CRS report but to figuring out what we do about it.

103           First, we are going to hear from the Acting Under Secretary of Defense for  
104 Personnel and Readiness. I understand that the Federal Voting Assistance Program is  
105 undergoing a period of transition and that it is currently operating under an acting director.  
106 Senator Ben Nelson and I just have sent a letter to Acting Under Secretary McGinn, one of  
107 our witnesses today, urging that a new director be put in place as soon as possible so we can  
108 get this moving.

109           We sent the letter to make it sure for the record that we believe that an effective  
110 Federal Voting Assistance Program is something very important to members of Congress  
111 and we want to work closely with the new director to ensure he or she receives the report  
112 from our respective committees.

113           Second, the leadership at the Department of Defense needs to use every available  
114 resource to increase the number of military voters who register, vote, and have that vote  
115 counted. This needs to be accomplished through a true assessment of the problems and an  
116 innovative approach to structuring voting assistance, improving technology, and informing  
117 Congress and the states what laws need to be reformed to make it easier for these soldiers  
118 and their families to vote.

119           There are a number of ways that the military can work to improve voting rights for  
120 members of the armed forces.

121           Recently, we requested that President Obama work with the Department of  
122 Veterans Affairs to provide voter registration support to the veterans they serve. But  
123 currently, the only federal offices that are required by statute to provide an opportunity to  
124 register and vote are the Armed Services Recruitment Centers. I am interested in finding  
125 out more about how that program works and whether it has been successful.

126           I must mention one more of our witnesses as I wind down our closing remarks. I  
127 would like to thank Lieutenant Colonel Joseph DeCaro from Florida, who is taking a  
128 very--there he is. He is not in uniform. I was looking for the uniform first. But he is

129 doing this as a volunteer even though he is on active duty and he is talking a very short  
130 leave from his duties with the Air Force and is willing to speak about the difficulties he has  
131 faced as a member of the Air Force stationed overseas and trying to vote.

132 And I think I speak on behalf of all of us when I say, Lieutenant Colonel, we  
133 appreciate your service and we hope you know that you are performing an important  
134 service today by telling your story here.

135 A final personal note. While we hear from members of the armed forces who have  
136 encountered difficulties trying to vote, I do not find that you have to look far to find these  
137 problems.

138 An intern in my Buffalo, New York office, Lisa Wickman, is a veteran. She was  
139 on active duty in the Navy from 2001 to 2006. She was stationed in Guam and was on  
140 shore duty during the 2004 election. Her problem was that she wanted to vote but did not  
141 know she had to vote absentee.

142 Despite weekly updates on a series of other important matters, her officers never  
143 gave her or her fellow sailors important information about how to vote.

144 Now, that should not happen, certainly not in the United States where elections are  
145 a bedrock of our political system and we correctly have great praise and admiration for  
146 members of the armed services.

147 So I look forward to hearing from all of you today.

148 We will now call on Senator Chambliss.

149

## 150 **OPENING STATEMENT OF SENATOR CHAMBLISS**

151

152 **Senator Chambliss.** Thank you very much, Mr. Chairman, and I appreciate you  
153 calling this hearing today on an issue that is of critical importance to America, not just to  
154 our men and women, but those folks that protect us every day need to have their rights  
155 protected. By your calling this hearing today, we are taking an important step in that  
156 direction.

157 Obviously I am substituting for Senator Bennett, who is was managing an issue on  
158 the floor, and I would initially asked for unanimous consent that Senator Bennett's  
159 statement be inserted in the record.

160 **Chairman Schumer.** Without objection.

161 [The prepared statement of Senator Bennett follows:]

162 **Senator Chambliss.** I was also privileged to serve as Chairman of the Personnel  
163 Subcommittee on Armed Services with my dear friend, Senator Ben Nelson, a couple of  
164 Congresses ago and still serve as a member of that Personnel Subcommittee and we have  
165 talked about this in Armed Services and we look forward to working with this committee in  
166 a bipartisan way, as you say, to address this issue.

167 The challenge of assisting our military servicemen and women's participation in the  
168 electoral process is not new. Since our Nation's founding, we have called upon the men  
169 and women of the military time and again to defend the rights and freedoms we Americans  
170 hold sacred.

171 Our soldiers are asked to leave family and home, travel to foreign and hostile lands,  
172 endure hardships of every kind, and place their lives in peril for their country. So, Mr.  
173 Chairman, it is appropriate that we in Congress do all that we can to ensure that these brave  
174 men and women are able fully to participate in the cause that they devote their lives to  
175 protecting.

176 Beginning with the Soldier Voting Act of 1942, Congress has sought legislative  
177 remedies to guarantee the voting rights for members of the armed services. The current  
178 law, the Uniformed and Overseas Citizens Absentee Voting Act or UOCAVA, was  
179 approved by Congress and signed into law by President Ronald Reagan in 1986.

180 UOCAVA sought to alleviate the difficulty of navigating the voting process for  
181 uniformed personnel and overseas citizens by standardizing the forms required of military  
182 voters to register to vote and request absentee ballots.

183 Additional provisions ensured that the states would accept these standardized  
184 forms, the Postal Service would carry them expeditiously and free of charge, and that a  
185 presidential designee, the SECDEF, would be responsible for administering the program.

186 Subsequent amendments included in the Help America Vote Act and various  
187 defense authorization acts have attempted to remedy some of the original Act's  
188 shortcomings.

189 This hearing provides us with a fresh opportunity to examine how we are doing in  
190 accomplishing our goal to protect the voting rights of our servicemen and women.  
191 Unfortunately it seems that our soldiers are not participating at anywhere near the levels  
192 that we would like and this is unacceptable.

193           As you have shown there, Mr. Chairman, a 2006 survey, conducted by the Defense  
194 Manpower Data Center, found that only 22 percent of the estimated UOCAVA population  
195 participated in the 2006 election. Commentators have proposed any number of  
196 explanations for this shocking statistic. Some point to the continuing use of traditional  
197 postal services or "snail mail" to deliver voting materials to and from the field. Others call  
198 attention to the apparent ineffective assistance of the DOD's Federal Voting Assistance  
199 Program, which the Department's own Inspector General found to reach only 40 to 50  
200 percent of military voters.

201           Again, I look forward to the testimony of our witnesses and hope that they can shed  
202 some light on why this may be the case.

203           Among the witnesses are those who are, or have been, military voters themselves  
204 and we thank you for your service to our country.

205           Additionally, we have election officials who serve a vital and often thankless job in  
206 ensuring that our elections run smoothly and securely. Nowhere is their job more  
207 challenging, or important, than in working with our men and women of the armed forces.

208           Finally, we have a representative of the Department of Defense. Our servicemen  
209 and women rely on the Department's Federal Voting Assistance Program to help them  
210 exercise their right to vote. I hope that we will hear an honest assessment of the program's  
211 execution of this very important responsibility and the results they have achieved.

212           Before closing, let me add a few comments based on my own recent experience in  
213 my election last fall. Georgia has a huge military presence. We have 13 military  
214 installations and I believe my State did a good a good job of reaching military and absentee  
215 voters in the general election in November. Georgia, as well as most other states, have an  
216 excellent procedure in place for general elections and, while I have some ideas about how  
217 these can be improved, I think in large part it worked very well.

218           Unfortunately, that was not the case in the run-off election in December. Lots of  
219 factors combined to make the run-off election especially difficult for military and absentee  
220 voters based on the delayed, official announcement that there would be a run-off, followed  
221 by a short time line to send and receive absentee ballots. I think this highlighted some of  
222 the weaknesses in the system, not necessarily in Georgia but across the country, and I  
223 believe that we can use that example to make improvements and find ways to ensure that  
224 our military and overseas voters are never disenfranchised.

225 Again, Mr. Chairman, thanks for holding this very important hearing and I look  
226 forward to the testimony of our witnesses.

227 **Chairman Schumer.** Thank you, Senator Chambliss, and now Senator Nelson  
228 who chairs a similar committee on armed services.

229

230 **OPENING STATEMENT OF SENATOR NELSON**

231 **Senator Nelson.** Thank you, Mr. Chairman, for holding this hearing. Obviously  
232 it is one of the most important topics that we can deal with because of the importance of our  
233 military men and women being able to vote and making certain that every vote counts. I  
234 look forward to seeing the testimony.

235 Unfortunately I am not going to be able to stay for the entire hearing. But one  
236 disenfranchised service member is one too many but, when two out of three ballots are not  
237 counted for whatever reason, we have got a serious problem on our hands.

238 I know that a lot of the data on overseas voting needs to be improved and made  
239 more complete and consistent from county to county and state to state so we can know  
240 more about what is truly happening because of the inadequate information and data that we  
241 currently get.

242 But I hope that we will find a way to increase coordination between the state, the  
243 Federal Government, the military, and the overseas voters. If we can improve the  
244 relationship and we find the way in which to expedite the process but make certain that it is  
245 complete and is sufficient, then we will be doing the kind of job we need to do.

246 So I appreciate your interest in this and thank you for holding this hearing.

247 **Chairman Schumer.** Thank you, Senator Nelson.

248 We look forward to working with your subcommittee as well on this important  
249 issue.

250 Now, I am going to introduce Gail McGinn. We have a vote at 10:30, but I think  
251 we will be able to get through not only her testimony but questions before the vote because  
252 I know you have another appointment.

253 Ms. McGinn is the current Acting Under Secretary of Defense for Personnel and  
254 Readiness. Her department oversees the Federal Voting Assistance Program office. Ms.  
255 McGinn, previously served as Under Secretary for Plans and other positions at the  
256 Department of Defense.



257 Ms. McGinn, your entire statement will be read into the record and you may  
258 proceed.

259

260 **STATEMENT OF GAIL MCGINN, ACTING UNDER SECRETARY FOR**  
261 **PERSONNEL AND READINESS, DEPARTMENT OF DEFENSE,**  
262 **WASHINGTON, DC**

263 **Ms. McGinn.** Thank you very much, Mr. Chairman and distinguished members  
264 of the committee.

265 I thank you for the opportunity to testify about the challenges our uniformed service  
266 and overseas voters experience in exercising their constitutional right to vote and the  
267 initiatives we have and continue to undertake to eliminate or litigate these challenges.

268 Our goals are the same. I think the department shares the committee's concerns  
269 that the absentee voting process is sometimes daunting and discouraging to these voters.

270 I would note, Mr. Chairman, that I am a military spouse and my husband retired  
271 from the Army. I did serve some time overseas with him and I got to experience overseas  
272 absentee voting, although I hasten to add, we were at headquarters, so I am sure it was  
273 much easier for us than for the rest of our constituency.

274 But the Department is dedicated to making the absentee voting process easier and  
275 more straightforward for these citizens. Time, distance and mobility are the barriers that  
276 make the absentee voting process difficult for our uniformed service members, their voting  
277 age family members and our citizens who live outside the United States, barriers that are  
278 not faced by citizens who vote at the polls.

279 First, there is time. There are certain actions, voter registration, absentee ballot  
280 request and the return of the citizen's marked ballot that must be accomplished by specific  
281 dates in order for the citizen's ballot to be counted. The amount of time a citizen has to  
282 complete the process is driven by the schedule established by each state and is subject to  
283 transit time in the postal system which may be extended when the individual is in a remote  
284 location.

285 Second is distance. Our military and overseas voters frequently find themselves at  
286 great distances from their voting residences. Many citizens are in areas where mail  
287 service is limited, intermittent or non-existent.

288 Peace Corp workers, submariners, forward deployed service members and others in

289 remote areas may face periods of no mail service during the ballot mail period.

290 Third is mobility. Our military and overseas voters are a dynamic group. Where  
291 they are located today may not be where they will be located for the next election. As we  
292 are a Nation at war, our military members face a high operating tempo which includes  
293 undergoing individual and collective training, participating in exercises and deployments.  
294 Overseas citizens also frequently move as job opportunities take them around the globe.

295 The Uniformed and Overseas Citizens Absentee Voting Act, UOCAVA,  
296 safeguards the right to vote in federal office elections for absent uniformed service  
297 members and their families regardless of location, and U.S. citizens who are overseas. In  
298 the administration of the law, the director of Federal Voting Assistance Program works  
299 cooperatively with state and local election officials to carry out the provisions of  
300 UOCAVA to eliminate the barriers faced by UOCAVA citizens.

301 The challenges of serving these citizens emanates from several principle causes  
302 characterized, as I had mentioned, by time, distance, and mobility and are exacerbated by  
303 the fact that, for many, mail remains the primary method for UOCAVA citizens to vote.

304 Our federal system under which 55 states and territories independently administer  
305 their election procedures means that registration, ballot distribution, and voted ballot return  
306 regulations and deadlines are determined by a large number of independent jurisdictions,  
307 each of which have unique requirements that must be met in order to register, request a  
308 ballot, and ultimately have the voted ballot count.

309 The Department employs three critical strategies. First, we have forged and  
310 maintained valuable partnerships with all who can assist in the absentee voting process  
311 including State and local election officials who carry out the elections, the United States  
312 Postal Service, the Military Postal Service Agency, the Department of State, the  
313 Department of Justice, other federal agencies, and overseas citizens organizations and  
314 advocacy groups.

315 Second, we continue to provide and encourage use of electronic transmission  
316 options for registering to vote, requesting a ballot and returning a ballot.

317 Third, we work with states to promote the passage of legislation that can positively  
318 effect the ability of our UOCAVA citizens to successfully participate in the democratic  
319 process.

320 For many years the Voting Assistance Program has proposed legislative initiatives to

321 state officials that would facilitate voting for our citizens. There have been many  
322 successes with some states enacting some or all of our recommended legislative initiatives.

323 Our legislative initiatives for states and territories to improve ballot transit time are,  
324 first, provide at least 45 days between ballot mailing date and the date that ballots are due,  
325 give state chief election officials the authority to alter elections procedures in emergency  
326 situations, provide a state write-in absentee ballot to be sent out 90 to 180 days before all  
327 elections and expand the use of electronic transmission alternatives for voting material.

328 Currently 27 states, three territories and the District of Columbia provide at least 45  
329 days between the ballot mailing date and the date ballots are due.

330 Seventeen states and the District of Columbia give chief election officials the  
331 authority to alter election procedures in emergency situations.

332 Twenty-seven states allow election officials to provide the state write-in a absentee  
333 ballot, and 47 states, three territories and the District of Columbia provide for the electronic  
334 transmission of voting materials for at least one part of the UOCAVA absentee voting  
335 process.

336 For the 2010 elections FVAP is pursuing the next generation of electronic tools to  
337 assist UOCAVA voters. These coordinated efforts have provided effective support for  
338 thousands of citizens; and while the mail does work for a large number of UOCAVA  
339 voters, we believe leveraging technology could be beneficial in removing some of the  
340 challenges voters experience.

341 Because each voter has a unique set of circumstances, the Department wants to  
342 provide as many alternative methods as possible for registering, requesting a ballot, and  
343 returning the ballot.

344 Clearly, the three areas for emphasis that you have identified in the letter that you  
345 sent to me, improved relationships and election officials, improved use of technology, and  
346 improved data on military voting are important ones that need to be continuously worked  
347 and we look forward to working with the committee on those issues.

348 I would like to thank you for your continued support of our service members, their  
349 families and our overseas citizens and all this committee has done to make it easier for  
350 them to vote.

351 I am happy to take your questions.

352 [The prepared statement of Ms. McGinn follows:]

353           **Chairman Schumer.** Thank you.

354           I am going to try to be brief so we can get questions in. You will hear a little buzz  
355 when the vote starts which gives us about 15 minutes before we have to go vote.

356           Okay. You mentioned the letter Senator Nelson and I sent you expressing the  
357 hope that the new Federal Voting Assistance Program Director who your office is currently  
358 finalizing would be able to provide effective leadership in improving access. We want to  
359 work with this individual.

360           And I know you cannot speak for the Secretary, but I want to know whether DOD is  
361 going to provide the support and authority to allow the new director to make the necessary  
362 changes.

363           **Ms. McGinn.** I believe that DOD will provide what support and authority that  
364 director needs. I think this is a very very important topic for us in the Department.

365           By our record of investment in this in terms of military manpower for voting  
366 assistance officers, the emphasis from the top both from the Office of the Secretary of  
367 Defense, the Secretary of Defense and the military departments, we are trying to do  
368 everything we can to make sure that our voters are not disenfranchised.

369           **Chairman Schumer.** One issue we need to be aware of is that the first federal  
370 primaries in 2010 are about a year from now. So we do not have that much time.

371           Second, I would like to talk to you about the voting at recruitment centers which I  
372 mentioned in my opening statement. As you know, one of the elements of the National  
373 Voter Registration Act is that armed services recruitment offices be a voter registration  
374 agency. It means that each potential recruit should be offered a voter registration form  
375 and help in filling out the form.

376           Could you give us an update as to how the program is faring and do you know how  
377 many potential recruits were registered to vote last year because of the program? If you  
378 do not know that number, if you could find out that and submit it writing that would be  
379 great.

380           **Ms. McGinn.** Mr. Chairman, in order to give you a full response, I need to submit  
381 it in writing. I am aware that our recruiting offices are doing the registration that they are  
382 supposed to be doing, but I do not have the full details of what you are asking.

383           **Chairman Schumer.** We need numbers to judge what kind of success we are  
384 having.

385           **Ms. McGinn.** Absolutely.

386           **Chairman Schumer.** The Inspector General reports. Two weeks ago, the  
387 Inspector General's Office released the 2008 evaluation of the Voting Assistance Program  
388 and I understand that with the 2008 study, the Inspector General stated, quote, "We are not  
389 making any recommendations in this report for improvement."

390           Now, I have read a number of Inspector General reports. It is sort of a rare day  
391 when they do not make any suggestions. The question is: does that strike you as odd? I  
392 saw by your face you sort of answered it.

393           **Ms. McGinn.** It is true they usually make recommendations and I have not  
394 spoken with him personally so I do not know what that is a reflection of. I think what they  
395 were doing was looking at the field to see the degree to which they were implementing the  
396 instructions and directives that we have out there. Obviously there are improvements to  
397 be made in many areas.

398           **Chairman Schumer.** Yes. The 2004 report concluded the Voting Assistance  
399 Program was not effective and that because, quote, and this is the 2004 report, "Voting  
400 assistance will always be a secondary duty. Senior leadership can expect significant  
401 improvement only if a radically different approach is applied."

402           Has there been such a radically different approach, since that report which was four  
403 years ago, applied?

404           **Ms. McGinn.** I think since 2004, Mr. Chairman, of course, I have not been in this  
405 position since then.

406           **Chairman Schumer.** Right.

407           **Ms. McGinn.** But I have observed my colleagues and my leadership at work. At  
408 least in the last four years, the command emphasis on this even to the extent of our previous  
409 Deputy Secretary, whenever he went to an installation, would ask to see the voting  
410 assistance officer, the number of training workshops that we have done, the web outreach,  
411 the publicity outreach.

412           I would say in the last four years it has been quite substantial and that could be the  
413 difference.

414           **Chairman Schumer.** Okay. Well, let us hope. It does not sound radical to me,  
415 but maybe the Inspector General was exaggerating or using too strong language, but that is  
416 something again we will want to look at.

417           Let us see. There was a recommendation, an effort that through the Federal  
418 Assistance Voting Program to notify election officials when members of the military have  
419 officially moved. That was the EAC survey, based on the EAC survey in 2006.

420           Do you know what the status of that recommendation is?

421           **Ms. McGinn.** No, I am afraid I do not.

422           **Chairman Schumer.** Could you get that to us in writing?

423           **Ms. McGinn.** Yes.

424           **Chairman Schumer.** And do you believe that kind of communication would  
425 encourage the improved delivery of military ballots?

426           **Ms. McGinn.** I believe for local election officials to know where the military  
427 member is very important. I have, in preparing for this hearing, read some studies that  
428 said a percentage of ballots were returned because the address of the person was not  
429 known. And I noted in my opening remarks that is one of our problems is the mobility of  
430 our population. Whether that transmission of information would be the appropriate way  
431 to do it or not, I do not know. I will have to get back to you on that.

432           **Chairman Schumer.** And this is your own personal assessment and this will be  
433 my last question because my time is running out.

434           If we had one change to make this better, what would it be?

435           **Ms. McGinn.** I would say it would be to encourage states to have more  
436 uniformity in their procedures so that there is not such a difficult explanation for each voter  
437 as to the processes they need to follow.

438           Can I have two?

439           **Chairman Schumer.** You can have three.

440           **Ms. McGinn.** Okay. Good.

441           I also think that if we can improve technology which also goes to states accepting  
442 the use of technology so that we can start to do this in a 21st-century way, that that would  
443 be very helpful as well.

444           **Chairman Schumer.** Any third one? Those are the two most important.

445           **Ms. McGinn.** I have a third one.

446           **Chairman Schumer.** I knew you would come up with it.

447           **Ms. McGinn.** The third one would be that all of us agree on a data collection.

448           **Chairman Schumer.** Yes.

449           **Ms. McGinn.** So that we really have statistics about what is happening out there  
450 because right now they come from many different sources.

451           **Chairman Schumer.** Good point.

452           **Ms. McGinn.** In our 2008 report we are going to ask our Defense Manpower Data  
453 Center to provide the data through a survey of our service. Of course they are a world  
454 class operation.

455           **Chairman Schumer.** You bet.

456           **Ms. McGinn.** So I think hopefully we can coalesce around those numbers and  
457 then help us go forward.

458           **Chairman Schumer.** Thank you.

459           Senator Chambliss.

460           **Senator Chambliss.** Thank you, Mr. Chairman.

461           **Ms. McGinn,** thank you very much for your work in this area.

462           I have got some questions that I wanted to address to you to let you discuss  
463 generally the Help American Vote Act's requirements in connection with the UOCAVA as  
464 well as the Federal Voting Assistance Program. I think what I am going to do is submit  
465 that for the record because I would like for you to go into some detail particularly with  
466 reference to ways that you think that legislatively we can improve it, do you have the  
467 resources for what you need, and that sort of thing.

468           But let me drill down a little bit on the Federal Voting Assistance Program and the  
469 voting assistance officers. The 2005 DOD IG report found that only 40 to 50 percent of  
470 military families received voting information either from the Voting Assistance Program  
471 and voting assistance officers.

472           What accounts for this poor performance? What do you think we can do to  
473 improve it? And as part of that, would you talk a little bit about how VAOs are selected,  
474 are they volunteers, and do we have a way of grading them. You talked a little bit in your  
475 statement about your personal experience. Was that a mandatory requirement that you  
476 train folks the way that you did that?

477           **Ms. McGinn.** The voting assistance officers, the way we want to get information  
478 to people, my experience in all my years working for the Department of Defense is that it is  
479 very difficult to get information to people even if they are situated in a headquarters  
480 element.

481           So I think what the Federal Voting Assistance Program has tried to do is use all  
482 available mechanisms to do that with the establishment of a website, with the provision of  
483 monthly updates and all relevant information to the Federal Voting Assistance Officers, to  
484 posters and publications for federal voting and access to your federal voting assistance  
485 officer, through all the training. I think we have got 193 training workshops leading up to  
486 this last election, and through working with overseas foundations and groups to get the  
487 word out to American citizens.

488           So I think they have tried very hard in order to reach out to everyone and make sure  
489 that they have the information that they require. But again, you have got populations that  
490 are dispersed. You have got populations that may not have access to information sources  
491 for a while.

492           So that number is high. It would not surprise me that there are some who do not  
493 get the information they need. That number, 40 percent is an unacceptable number and I  
494 do believe that in the last few years the Department has really taken an aggressive stance at  
495 getting the word out to people.

496           The voting assistance officers, I do not know exactly the process by which they are  
497 chosen. I would assume that they are with the requirement to have, one, that you choose a  
498 young officer who is competent and has interest in this area for getting the job done for the  
499 unit or the installation or the organization where they are assigned.

500           We provide training. We provide workshops. We provide regular information,  
501 newsletters, voting assistance guides, as I said, website operations. So it appears to me to  
502 be a robust effort to get the word out and to use the voting assistance officers for that.

503           **Senator Chambliss.** One of our witnesses on the next panel suggests having  
504 DOD provide registration materials at locations where service members receive other  
505 support services like pay offices, ID offices, check-in at bases, and whatnot.

506           Has the Federal Voting Assistance Program considered that and what sort of  
507 implementation measures are you taking if that is the case?

508           **Ms. McGinn.** I honestly, sir, do not know if that has been considered by our  
509 Federal Voting Assistance Office. It is something that we can look at certainly.

510           **Senator Chambliss.** Well, it seems like that might be, again, one of those  
511 education measures that we can take advantage of because everybody that comes to a new  
512 base goes through that support service office.



513           **Ms. McGinn.** Yes, they do.

514           **Senator Chambliss.** Well, thank you for your good work and we look forward to  
515 continuing to work with you.

516           Thank you, Mr. Chairman,

517           **Ms. McGinn.** Thank you, Senator Chambliss.

518           **Chairman Schumer.** Thank you, Senator Chambliss.

519           Senator Nelson.

520           **Senator Nelson.** Thank you, Mr. Chairman.

521           Obviously, technology is going to be extremely important in resolving, taking away  
522 the challenges that exist because of time differences and the length of time for the ballots to  
523 be transported back and forth. Preserving anonymity is going to be a major focus of that I  
524 am sure. But it probably does not solve mobility, of identifying where people are.

525           So I am hopeful that in light of the experience that has been gained in the last three  
526 elections that perhaps there are some updates or revisions to DOD policy and procedures as  
527 set forth in the DOD Directive Number 1000.04, dated April 14, 2004, that might help us  
528 facilitate getting more success in voting by men and women in the military.

529           Could you comment on that?

530           **Ms. McGinn.** Well, we are constantly trying to upgrade our own ability to do  
531 electronic work in order to facilitate the process. We have the ability right now for  
532 citizens to get a copy of the postcard application electronically, to fill out the postcard  
533 application electronically, to get a copy of the absentee voter ballot electronically, the  
534 federal absentee voter ballot electronically. So we are trying to continue to improve that.

535           I think that one of the lessons we have learned in going into elections is that, as we  
536 start to improve technology and put technology solutions out there, we need to start sooner  
537 than we started in the past. I think that is one of the challenges that we will have, to  
538 continually upgrade those solutions and to make sure that they are in a timely way so that  
539 the states know that they are there and know the capability that they bring.

540           **Senator Nelson.** Is there a difference in how you might deal with local elections  
541 that do not involve a federal election or every two or four years when you have a federal  
542 election, is that handled differently?

543           **Ms. McGinn.** It is handled the same. I believe the difference is local elections  
544 uniformed members and their families vote in and so we push the same kind of information

545 out to them. But I have noticed in, as I said, watching this program unfold for the last four  
546 years, that every two years there is this concerted effort. And of course, with the national  
547 election for the President, it is a little more heated, if you will, but there is still a level of  
548 effort that is very significant for elections every two years.

549 **Senator Nelson.** Of course you have the off-year elections in some states that do  
550 it in the odd years, not necessarily in the even years. I know it is a monumental, Herculean  
551 task to try to achieve it all.

552 But I would hope that the use of technology both at the election commissioner's  
553 office as well as within DOD would help facilitate it because obviously those statistics  
554 would demonstrate that timing is a factor getting materials to the voter and materials from  
555 the voter back to the point of the election.

556 Have you thought about any kind of federal requirement that might make counting  
557 ballots that come from overseas, extend the time frame for counting those ballots in local  
558 elections or state elections or federal elections?

559 **Ms. McGinn.** I think that is what we are trying to accomplish with the legislative  
560 issues that we have laid before the state as state issues. One is to extend 45 days for the  
561 receipt of the ballot and also to allow variations from procedures in special cases.

562 So I think we are trying to work with the states to do that. I do not know if that can  
563 be done nationally.

564 **Senator Nelson.** It probably could for a federal election. But I am not  
565 suggesting that we necessarily want to start dictating from Washington back to the states.  
566 But what kind of response are you getting from the states in connection with your  
567 suggestions?

568 **Ms. McGinn.** We have gotten responses from them. I detail it in my statement.  
569 I guess what I would note from my reading is that we have had a lot of success in the  
570 acceptance of fax technology, that a lot of states are accepting faxes along the various  
571 ways, steps in the process, the voting and registering to vote. And we are starting to see  
572 some success in the electronic area too but not as much and robust as in the fax. So maybe  
573 that portends of the future that that will start to improve as we go forward.

574 **Senator Nelson.** Now, would the fax be for registration as opposed to a ballot?

575 **Ms. McGinn.** For registration, for receipt of the ballot, even some states will even  
576 accept it for the ballot.

577           **Senator Nelson.** Thank you, Mr. Chairman.

578           **Chairman Schumer.** Thank you again, Ms. McGinn, for your excellent  
579 testimony.

580           Now, we have the second panel, but the vote has been called so I think it would be  
581 wise to take a brief recess now. We will go vote and come back and hear from the second  
582 panel.

583           Is that okay with everyone? Do you have any more questions, Saxby? Okay.

584           The committee will stand in brief recess.

585           [Recess.]

586           **Chairman Schumer.** Okay. Thank you, everybody, for your indulgence. The  
587 hearing will resume.

588           First, I would ask unanimous consent that a statement from Senator Feinstein, our  
589 former chair, previous chair, who has done a great job, be added to the record and without  
590 objection it will be.

591           [The prepared of Senator Feinstein follows:]

592           **Chairman Schumer.** And second, Senator Roberts had asked to make a brief  
593 statement. He has had a busy morning with Finance Committee and other things, and so  
594 before our panel begins, I am going to call on Senator Roberts.

595

596                           **OPENING STATEMENT OF SENATOR ROBERTS**

597           **Senator Roberts.** Thank you, Mr. Chairman. I will take your advice to heart.  
598 The chairman indicated that I could make this short statement prior to the panel testifying  
599 and I apologize to the panel but only if I would shave. I plead extenuating circumstances,  
600 Mr. Chairman.

601           I had knee surgery and I was laid up for about three weeks and the only thing I did  
602 really was to watch Law and Order reruns. There are some things that you have to do but  
603 other things you do not, and one is shaving. Since coming back, I have heard a lot of  
604 commentary especially from folks like yourself and so I just decided to be stubborn, but I  
605 will shave because of your taking my request and so we will just make that promise to you.

606           **Chairman Schumer.** Just to interrupt. There is a constituency of one when it  
607 comes to beards as I have learned, and that is Frankie, your wife.

608           **Senator Roberts.** She says it is not that bad.

609 [Laughter.]

610 **Chairman Schumer.** Okay. You are way ahead of where I was when I grew a  
611 beard.

612 **Senator Chambliss.** You have to look at what she is used to in that context.

613 [Laughter.]

614 **Senator Roberts.** I knew that was coming. Anyway, I am now the fourth stand  
615 in for Sean Connery. The fourth stand in is the body that they roll over.

616 **Chairman Schumer.** Having played basketball with you, I know you have a  
617 Connery-like figure.

618 **Senator Roberts.** That is because of all those blind-side moves that you used to  
619 complain about.

620 **Chairman Schumer.** That is right.

621 **Senator Roberts.** Alright. At any rate, thank you, Mr. Chairman, for holding  
622 this hearing and thanks to the panel and we will be reading that very carefully. As a  
623 Marine, I take this issue personally and it helps that we have 37,000 military men and  
624 women stationed in Kansas. So this is an issue that is of real concern to me.

625 I find it very disappointing that with all the incredible technology we have today,  
626 Mr. Chairman, that we ask for the military to vote the same way we have since World War  
627 II, and I do not think that is right. They can check their e-mail, video conference with their  
628 families, even upload the YouTube clips while deployed.

629 But despite all of these advances, we simply ask them to rely on a disparate system  
630 of state rules and requirements and the mail system to track them down if they want to have  
631 a say in our elections.

632 I think our service men and women certainly deserve more. In fact I do not think  
633 anybody in the room would ever disagree with the idea that the men and women defending  
634 our freedom deserve the right to have their votes counted. So let us give the tools to vote  
635 once they have performed their civic duty. Let us make sure their votes are counted.

636 I have signed a lot of letters on this topic and I have sponsored and co-sponsored a  
637 lot of legislation. There was one by John Cornyn that passed the Senate by unanimous  
638 consent, but it was somehow dropped over in the other body, in the House.

639 And the media has certainly exposed some of the problems involved and we thank  
640 them for that. So I hope we can get back. I think everybody has talked about the

641 bipartisan effort that we need here and I certainly support that. Maybe we can take the  
642 Cornyn bill or Cornyn II if improved, and it is time we worked in that kind of a fashion to  
643 make sure the votes of our service men and women are counted.

644 And I thank you, Mr. Chairman for allowing me to make this statement.

645 **Chairman Schumer.** Thank you for coming in and participating.

646 I now would like to introduce our five witnesses and ask them then to make their  
647 statements. And we are honored to have everyone of you here.

648 First, Patricia Hollarn recently retired after 20 years as supervisor at elections at  
649 Okaloosa County, Florida. She is a board member of the Overseas Vote Foundation. I  
650 have to say she is regarded as one of the experts nationally in this area.

651 We thank you for coming and she has some New York roots as well, which I am  
652 proud to acknowledge.

653 Mr. Donald Palmer is Director of the Division of Elections at the Florida  
654 Department of State. He worked earlier as an attorney for the voting section of the Civil  
655 Rights Division of the Department of Justice and as a legislative assistant in the House of  
656 Representatives.

657 To whom was that?

658 **Mr. Palmer.** Mr. Feeney.

659 **Chairman Schumer.** Very nice.

660 And as a Navy intelligence officer. From 1998 to 2005 he served in the Navy's  
661 Judge Advocate General Corp.

662 Lieutenant Colonel Joseph DeCaro, who both Senator Chambliss and I have  
663 mentioned, is on active duty in the United States Air Force. He lives in Florida. His  
664 remarks today are his own and do not reflect the views of the Air Force, the Department of  
665 Defense, or the current Administration.

666 Lieutenant Colonel Decaro joined the Air Force in 1986, served at Hunter Army  
667 Air Field in Georgia, Prince Sultan Air Base in Saudi Arabia, and the Al Udeid Air Base in  
668 Qatar.

669 We thank you for your service, Colonel.

670 And Mr. Eric Eversole worked as a litigation attorney in the voting section of the  
671 Civil Rights Division at the Department of Justice from 2005 through 2007, then served as  
672 an advisor to the 2008 McCain-Palin campaign.

673 Mr. Eversole was an officer in the Navy's Judge Advocate General Corp in 1999 to  
674 2001.

675 And last, but not least, Mr. Robert Carey is a consultant to business and government  
676 whose experiences trying to vote while in the armed forces led him to join the National  
677 Defense Committee to help other soldiers exercise their voting rights. He has been called  
678 back to active duty three times since 2000. He has been awarded a number of military  
679 honors. Thank you for your service.

680 We will begin with Ms. Hollarn. We will ask each witness to take no more than  
681 five minutes and submit without objection their entire statements into the record.

682 Ms. Hollarn.

683

684 **STATEMENT OF PATRICIA HOLLARN, RETIRED ELECTIONS**  
685 **DIRECTOR, OKALOOSA COUNTY, FLORIDA**

686 **Ms. Hollarn.** Thank you. This is the first time in my memory that anyone has  
687 maintained interest and purpose beyond election day in improving opportunities for  
688 military voters anywhere and other American citizens overseas to register and vote.

689 So I am grateful to you, Senator Schumer, the Rules Committee members and staff  
690 for allowing me to participate in this much needed effort for legislative action.

691 I not only have been working with UOCAVA voters and the problems they  
692 confront for 20 years as the Supervisor of Elections in Okaloosa County, Florida, which  
693 has an extraordinarily large military constituency, but I was also an overseas military  
694 spouse who had these very same difficulties in the '60s and '70s during my husband's Air  
695 Force career.

696 The problems actually began with voter registration particularly when a person is  
697 not actually registered prior to leaving his or her legal voting residence. It is accepted that  
698 each state is entitled by the Constitution to have its own election laws and requirements,  
699 but it should also be accepted that the federal Uniformed And Overseas Citizens Absentee  
700 Voting Act, or UOCAVA, must be applied in every state to persons who fall under  
701 UOCAVA.

702 Unfortunately most of these affected persons are not at all familiar with the  
703 entitlements of UOCAVA to take advantage of them in a timely manner in accordance with  
704 the law and even more unfortunately many election officials are not sufficiently familiar

705 both with UOCAVA and its correct implementation.

706 This leads to confusion about legal voting residency for military personnel  
707 stationed within the United States and even worst for those already overseas.

708 The law absolutely provides several options in these cases but often neither the  
709 voter nor the election official is well enough versed to resolve the situation as the law  
710 permits. And this in turn either delays or denies a prospective voter his ballot.

711 Once registered, the UOCAVA voter's only responsibility is to provide his or her  
712 correct mailing address or other contact information to the election official. That voter is  
713 absent from his voting jurisdiction and must be kept informed by the election official; but  
714 in the case of the highly mobile military member, that is still a problem just as much for the  
715 voter as for the election official.

716 Returned undeliverable mail not only can deprive the voter from receiving a ballot  
717 but jeopardizes active voter status for the future as well and that starts the cycle of  
718 re-registration problems all over again.

719 Obviously the issue of receiving and casting a ballot with the issuance of it being  
720 counted is the ultimate problem. I believe it is fair to say that almost all election officials  
721 want this process to be successful as much as the voter does and yet issues that are beyond  
722 their control often prevent that from happening.

723 First, I would talk about elections schedules in some jurisdictions or states that do  
724 not allow enough time after the ballot, candidates and issues are certified and the printing  
725 of ballots can begin. Work to prepare the lists of eligible voters can be done ahead of this  
726 period, but updating is continual and maintaining accuracy add complexity. If there is not  
727 a minimum of 45 days that is the deadline for mailing UOCAVA ballots, the chances  
728 lessen every day for solving any delivery problems.

729 The law provides at least by FVAP request for the 45-day deadline for overseas  
730 voters' ballots only. However, with more and more TDY and deployment, temporary  
731 duty, TDY is temporary duty, and deployment overseas assignments given at the last  
732 minute to military members many whose records show that they are located in the United  
733 States are actually overseas temporarily during election time.

734           Either they run out of time to request a ballot, to notify the election's office where to  
735           send the ballot or there is great difficulty in receiving ballots by mail or even fax in remote  
736           or combat locations taking too much time to have the ballot received, cast and counted.

737           Some states have laws that require specific forms and procedures for requesting  
738           absentee ballots that are clearly cumbersome and create time and frustration problems for  
739           UOCAVA voters.

740           HAVA eased some of the problem by making the request for ballots through two  
741           general elections, but the unintended consequence of that was to result in an excessive  
742           number of ballots that were return as undeliverable. Those jurisdictions which added  
743           additional procedures to verify addresses no later than 90 days before an election improved  
744           ballot delivery considerably but the practice was not wide spread enough to reduce the  
745           failures.

746           Many voters now eligible under UOCAVA are the Reserve and National Guard  
747           members who are serving much longer on active duty than their former two-week active  
748           duty service in the past in jurisdictions with few or no standard military installations and  
749           few military or expatriate citizens on the voter rolls.

750           Election officials who have had no real experience with implementing UOCAVA  
751           rights do not realize how they must now do so.

752           Combined with the lack of information about registration and voting provided to  
753           these activated personnel, the amount of voting problems among this group in all  
754           likelihood exceeded regular active duty members.

755           All UOCAVA voters are subject to the problems traced to mailing ballots. While  
756           the U.S. Postal Service created a separate department, new and worthy procedures, and  
757           good outreach to election officials to help expedite ballots in 2008, their efforts ended at  
758           the three ports, Miami, New York and San Francisco where the military postal system took  
759           over.

760           It would not be totally fair to criticize the military postal system which must operate  
761           with insufficient resources under very difficult circumstances in many instances but delays  
762           in it are inherent to the timely delivery problem.

763           It is sufficient to say that mailing ballots as well as other election related pieces is  
764           still the biggest problem for receiving, casting and counting the ballots.

765           I can speak at much greater length about problems and even more so about



766 solutions and look forward to such an opportunity. I would like to, in the question and  
767 answer period, respond to some of the questions that were asked to the Defense  
768 Department and as well as to mention the electronic solutions that I think are possible.

769 [The prepared statement of Ms. Hollarn follows:]

770 **Chairman Schumer.** Thank you, Ms. Hollarn, for excellent testimony and  
771 excellent service.

772 Mr. Palmer.

773

774 **STATEMENT OF DONALD PALMER, DIRECTOR, DIVISION OF**  
775 **ELECTIONS, FLORIDA DEPARTMENT OF STATE**

776 **Mr. Palmer.** Thank you, Mr. Chairman and ranking member. Thank you for  
777 this invitation to discuss with you the challenges of military and overseas voters during the  
778 voting process and the great strides that Florida has made to increase the access to that  
779 voting franchise.

780 Florida makes every effort to meet the needs of our diverse population of 11.2  
781 million registered voters and we are keenly aware of the particular needs of the military and  
782 overseas voter and overcoming the logistical challenges that they face in fully participating  
783 in our electoral system. As election administrators our job is to utilize the tools that you  
784 provide us with legislation to maximize participation.

785 With the leadership of state and local election officials in Florida using alternative  
786 means of transmission of ballot materials and the wisdom of the Florida legislature to  
787 repeal the second primary, Florida has become one of the national leaders of facilitating  
788 military and overseas voting participation.

789 In this testimony I hope to provide some reasons for that increase of access to the  
790 voting franchise.

791 First, the State of Florida requires the mailing of ballots to overseas voters 45 days  
792 prior to a general election. In Florida we have removed the second primary, and  
793 jurisdictions are able to provide 45 days for the transmission of ballots and to accept ballots  
794 up to the 10 days after the election as long the ballot is signed and dated by election day.

795 In this era of "snail mail," despite the improved efficiency of the Postal Express  
796 Service, allowing for 45 days for transmission is prudent and the additional window of time  
797 after the election in which to accept ballots provides a safety valve to receive any ballots

798 that were delayed in the mail.

799 To allow a sailor on the ship or a soldier in the field the extra time to receive and  
800 return the ballot on time is absolutely necessary when relying solely on the mail service.

801 Second, State and local election officials in Florida have taken extra steps such as  
802 seeking updated addresses from FVAP and fully utilizing e-mail, fax, and the internet  
803 where appropriate, in the transmission of ballot materials to and from overseas voters.

804 In late September 2008, Secretary of State, Kurt Browning, traveled to the Middle  
805 East with other Secretaries of State to see firsthand how soldiers in the battle field receive  
806 and cast their absentee ballots. This was the first time the DOD has invited Secretaries of  
807 State to travel to the areas of operation in Iraq, Afghanistan and Kuwait to personally  
808 observe the absentee balloting process.

809 This trip provided Secretary Browning an opportunity to ask the men and women in  
810 the field directly what they really need to successfully vote when faced with the challenges  
811 of the mail system and other events swirling around them in the battle zone.

812 He heard that they would like to use their computers and electronic mail to return  
813 voted ballots. While many states including Florida allow the use of a fax to return voted  
814 ballots, he heard that many of these service members simply no longer have fax technology  
815 readily available to them. Instead, most, if not all, have access to a computer, a scanner,  
816 e-mail and to the internet. When possible, they often use electronic mail as a primary  
817 method of communication with their local election official and expressed a similar desire  
818 to use an e-mail to vote because of its simplicity.

819 We also heard from service members that they are often anxious and frustrated with  
820 the rapidly approaching election day because they are often left in the dark as to the status  
821 of their ballot. They are concerned whether or not the ballot will get to them and, if they  
822 did, whether the ballot will make it back in time.

823 At present there is no systematic way of finding out the status of their request or  
824 when the ballot had been sent or whether the ballot has a realistic chance of being received  
825 back in time.

826 Because many soldiers and sailors are relying on their e-mail and the internet to  
827 communicate with the outside world and to our election officials, they believe it would be  
828 helpful to receive regular updates on when their ballot request had been received, when the  
829 ballot had been set and when local election officials received their voted ballot.

830 Third, Florida has maintained a spirit of ingenuity and transparency to use the latest  
831 technology and encryption measures available to reach our remote voters. Florida is open  
832 and flexible to incorporate the newest technology in our voting systems by testing,  
833 certifying and employing the latest voting systems for its use by its citizens.

834 In this past cycle the Florida division of elections was able to successfully review  
835 and certify the project application offered by the Okaloosa distance balloting pilot  
836 primarily because of the foresight of legislators in giving local election officials the ability  
837 to utilize the secure use of the Internet for voting purposes.

838 I am very proud of the pioneering spirit of our bureau in its first of a kind review of  
839 the source code and security plan submitted by Okaloosa County and its vendor, Scytl.

840 Fourth, Florida recognizes the huge role that the Voting Assistance Officers and the  
841 role they play for the men and women in uniform to register and vote. States also have an  
842 unique opportunity to work with their National Guard units.

843 The Florida National Guard developed a small but effective program to include  
844 voting information with their deployment briefing and to send updates on voting  
845 information to deployed unit e-mail addresses. Prior to deployment, the National Guard  
846 provided units the necessary voting information unique to Florida while stressing the  
847 importance of maintaining e-mail or phone communication with their local election  
848 officials ensuring accurate address information and confirming ballot delivery.

849 The simple goal was to make each airmen, sailor and guardsmen election ready  
850 before they deployed and left U.S. soil, not after. This type of program could be easily  
851 implemented for deploying National Guard units across the country.

852 Fifth, Florida has developed a very close relationship with the United States Postal  
853 Service. In the run up to the 2008 election, Florida election officials met repeatedly with  
854 U.S. Postal Service representatives at the State and local level.

855 Together we explored different ways to use technology and properly prepare ballot  
856 envelopes to further streamline the postal mailing of the ballots. Together the Postal  
857 Service provided counties individual opportunities to design the ballot, to reduce error or  
858 confusion in the delivery and return process and use technology such as intelligent code to  
859 track absentee ballots while in the continental United States.

860 As a former military citizen stationed overseas and deployed on a ship where mail  
861 was delivered by the occasional COD leading on deck, I can assure you that these men and

862 women want to participate and vote despite the swirl of daily activity around them. I  
863 remember being deployed on a carrier in the Mediterranean during the 1992 presidential  
864 election wondering if my ballot would ever make it to me and back in time.

865 Often the men and women serving overseas are frustrated and concerned that their  
866 vote will not be returned in time to be counted. However they are committed to the  
867 mission and they will not complain. Therefore it is our responsibility to review the facts  
868 presented on overseas military participation and point to potential deficiencies and use the  
869 tools necessary to facilitate that vote.

870 Thank you.

871 [The prepared statement of Mr. Palmer follows:]

872 **Chairman Schumer.** Thank you Mr. Palmer.

873 Lt. Colonel DeCaro.

874

875 **STATEMENT OF LIEUTENANT COLONEL JOSEPH DECARO,**  
876 **UNITED STATES AIR FORCE**

877 **Lt. Colonel DeCaro.** Chairman Schumer, members of the committee, thank you  
878 for allowing me the opportunity to speak here today.

879 My name is Joseph DeCaro. I am a Lieutenant Colonel on active duty in the  
880 United States Air Force. I was born and raised in Chicago, Illinois, and entered military  
881 service in July of 1986 when I started basic training at the United States Air Force  
882 Academy.

883 I am testifying in my personal capacity and my views do not represent those of the  
884 United States Air Force, the Department of Defense, or the current Administration.

885 Even before I was old enough to vote, I believed that it is important for every  
886 American to be aware of who their elected officials are, for the electorate to stay informed  
887 on local, state and national issues, and to know the positions of their elected officials on  
888 these issues. I have always done this myself and I have done my best to cast my ballots  
889 during primary and general elections. However as a member of the armed forces, I have  
890 not always been home on or shortly before election day.

891 During the 2000 general election, I was on a temporary duty assignment to Hunter  
892 Army Air Field in Georgia. This was a forecast temporary duty and I requested an  
893 absentee ballot and that was how I voted that year.

894           On election night while conducting post-mission paperwork, members of my unit  
895 and I sat on the old B-47 alert ramp at the air field and listened to election results via FM  
896 radio. Most of us had cast our votes via absentee ballot; and as the process of determining  
897 the election dragged on and concerns over military absentee ballots were raised, we  
898 became concerned our votes might not be counted.

899           While I do believe our votes did count, it was frustrating to think that consideration  
900 and/or attempts were made to disenfranchise military members whose efforts protect and  
901 ensure that that very thing does not happen to other United States citizens.

902           From August to December of 2002, I was deployed to Prince Sultan Air Base,  
903 Saudi Arabia, as a task force liaison officer to the United States Central Command  
904 Combined Air Operations Center. This was a well established location and actually had  
905 an additional duty Voting Assistance Officer. It was through the Voting Assistance  
906 Officer that I received and cast an absentee ballot for the general election that year.

907           In December of 2003, I was deployed to Al Udeid Air Base in Qatar as the United  
908 States Central Command Joint Search and Rescue Director. This was a one-year  
909 deployment and I knew I would not be home to cast my ballot in person.

910           During my R & R leave during the spring of 2004, I went to the branch office of the  
911 county Supervisor of Elections and requested an absentee ballot.

912           During the months of August and September, in September the tempo of operations  
913 was very busy and I had to take a trip forward to Djibouti in the horn of Africa and a trip  
914 forward to Baghdad, Iraq. Both trips were several days in length and upon return from  
915 each, I expected my absentee ballot to have arrived, but that was not the case.

916           It was not uncommon for mail one way to or from home to take three weeks to  
917 arrive; and as the end of September approached, I was getting concerned that I might not  
918 have enough time to for my ballot to make it in before election day. Fortunately the  
919 telephone and internet connectivity at my deployed location was excellent.

920           In the beginning of October, I contacted the office of the Supervisor of Elections  
921 via the link on their website and requested the status of my absentee ballot. The office  
922 e-mailed back that my ballot had been mailed out and that I should have received it a month  
923 earlier. At that point I called my home base phone operator via the defense switching  
924 network and had them forward me to the branch office of the country Supervisor of  
925 Elections. I explained who I was and gave a synopsis of the e-mail traffic. The office

926 was extremely helpful but even in this era of modern communication my only avenue for  
927 voting was via hard copy absentee ballot that would go through the military and United  
928 States postal systems. With that as the constraint, the office immediately mailed out  
929 another ballot via priority mail and e-mailed electronic copies for me to review and shorten  
930 the turnaround time once the ballot arrived.

931 The Supervisor of Elections, Ms. Hollarn at the time, also personally e-mailed me  
932 about what was happening. Luckily the absentee ballot arrived about a week after the  
933 phone call and I sent it back the same duty day. Ms. Hollarn e-mailed me a week later to  
934 let me know that my ballot arrived. That was approximately two weeks before election  
935 day.

936 I am grateful for all the help the office of the Supervisor of Elections provided and  
937 for efforts and personal interest of Ms. Hollarn.

938 Following this deployment, I was fortunate enough to have continuous and reliable  
939 communication and that was key in being able to vote that year, but this was most certainly  
940 an added stressor to the environment in which I was working.

941 Every moment I spent researching and coordinating with state-side resources to be  
942 able to cast my ballot was against any personal time off. The mission is and always must  
943 be the main focus.

944 Being deployed to support and conduct combat operations is difficult as it is. I  
945 still had a family back home to worry back; and in addition to the normal trials and  
946 tribulations that are associated with military life, my wife and daughter were dealing with  
947 the aftermath of Hurricane Ivan during this period, a storm which caused damage to our  
948 home that I still had to repair when I returned from this deployment.

949 I cannot comment on the Soldier, Sailor, Airman or Marine who at a forward  
950 operating base without dedicated phone lines, no web connectivity and gets mail once a  
951 week. I think every American should do what they can to cast their ballot and make their  
952 voice heard.

953 As with many other citizens, I will continue to do this, but there should be a better  
954 way in which to cast their ballot while deployed.

955 This concludes my prepared remarks and I am happy to answer any questions.

956 [The prepared statement of Lt. Colonel DeCaro follows:]

957 **Chairman Schumer.** Thank you and thanks to Ms. Hollarn for helping you.

958 Mr. Eversole.

959

960 **STATEMENT OF ERIC EVERSOLE, ATTORNEY**

961 **Mr. Eversole.** Thank you, Chairman Schumer, Senator Chambliss. Thank you  
962 for allowing me to testify today.

963 We ask our military members and their families to make great sacrifices on a daily  
964 basis. We send them around the world to defend America's interests, our freedom and our  
965 liberty. We send them to places like Iraq so that the Iraqis may enjoy the same rights that  
966 we enjoy, like the right to vote.

967 But when it comes to their rights, when it comes to the military members' right to  
968 vote, we seem to forget their sacrifices and we deny them the very voting rights that we ask  
969 them to defend. The 2008 election is a case in point.

970 In Florida, for example 26 percent of 340,000 military members were able to  
971 request an absentee ballot. That is 26 percent of 340,000. That means that 74 percent  
972 never requested an absentee ballot and did not even get in the ballpark. That is 240,000  
973 service members that never got a chance to receive an absentee ballot and most likely did  
974 not get a chance to participate in the election.

975 Figures in other states are very similar both at the rejection rate and the  
976 participation rate. And these figures are truly, truly a national embarrassment. The  
977 world's greatest democracy and we cannot ensure that our military members have an  
978 opportunity to vote in our federal elections. It is a national or a federal issue.

979 Sure, states could do a better job with the administration of the elections. All  
980 states should be required to mail out absentee ballots at least 45 before the election. I  
981 made that recommendation in my written testimony. I stand by it here today. But the  
982 real failure here, the area where we can make the most significant improvements, are all  
983 controlled by the federal government. The Department of Defense controls access to  
984 military installations and access to its service members. The Department of Defense  
985 knows where these service members are located. They know where these families are.

986 It is the Federal Voting Assistance Program's responsibility to provide these service  
987 members with voting assistance. In the same way it is the Department of Defense or the  
988 Military Postal Service Agency that is responsible for delivering these absentee ballots.  
989 They have the ability to expedite both the delivery there and the return back. And it is the

990 Department of Justice that enforces our Nation's voting laws.

991 In all three areas the federal government has failed. This has to be the starting  
992 point of any legislative solution.

993 First and foremost, the Federal Voting Assistance Program has to change its  
994 method for providing voting assistance. The current system which relies upon a voting  
995 assistance officer as a collateral duty does not work. The Inspector General reached that  
996 conclusion in 2004. He showed in 2006 that the number of service members that received  
997 information was still about 40 percent, less for family members, but little has changed.

998 If you want to increase military voter participation, FVAP has to provide voting  
999 assistance, as the Inspector General said, on a timely and consistent basis. They need the  
1000 information when they move or deploy to a new installation or new post. Service  
1001 members already have an obligation, as Senator Chambliss pointed out, to visit their pay  
1002 and personnel office when they report to a new installation. They get a variety of federal  
1003 forms when they are there. They most likely get a servicemen's group like insurance form  
1004 to fill out. They may have to fill out a new W-2. They have to update their family's  
1005 information.

1006 They already fill out a variety of forms. One more form is not going to materially  
1007 increase their burden, but it will ensure that that service member, when he is moved, will  
1008 get a chance to update their registration in a timely and consistent manner. It is a small  
1009 legislative change but a significant step forward.

1010 Second, states have to mail absentee ballots at least 45 days before the election. I  
1011 think every expert that has looked at the issue has agreed that 30 or 35 days is not  
1012 sufficient. Again that is an area where the Uniformed and Citizens Absentee Voting Act  
1013 will be modified with a fairly simple amendment, but it would make a significant  
1014 difference in the approximate 20 states that do not provide 45 days.

1015 And third, Senator Cornyn and Senator Wyden reintroduced the Military Voter  
1016 Protection Act yesterday as a bipartisan bill. I believe that this bill is a very important  
1017 component to any legislative solution and has a very simple mandate. It tells the Federal  
1018 Voting Assistance Program and the Military Postal Service Agency that if a service  
1019 member gets that ballot in the mail at a collection point four days before the election, that  
1020 ballot will make it home. It is a guarantee of sorts. You can track it. You can rest  
1021 assured that it is going to get home and I think that is a very important guarantee for many



1022 of the reasons that the lieutenant colonel was pointing out, and I think it should be  
1023 implemented in a very timely manner so it can be implemented by 2010.

1024 With that said, thanks again for the opportunity to testify and look forward to your  
1025 questions.

1026 [The prepared statement of Mr. Eversole follows:]

1027 **Chairman Schumer.** Thank you, Mr. Eversole.

1028 Mr. Carey.

1029

1030 **STATEMENT OF ROBERT CAREY, EXECUTIVE DIRECTOR,**  
1031 **NATIONAL DEFENSE COMMITTEE**

1032 **Mr. Carey.** Mr. Chairman, Senator Chambliss, thank you for inviting National  
1033 Defense Committee to speak here today.

1034 The National Defense Committee is a grassroots military service organization  
1035 focusing on individual rights of service members and strengthening the civil military  
1036 relationship.

1037 Since 2003 the committee has made military absentee voting a flagship issue and,  
1038 for the 2008 election, started the military ballot protection program to provide election day  
1039 protection of military ballots threatened with unjustifiable challenge or rejection.

1040 I also have the honor of serving as a board member on the Overseas Vote  
1041 Foundation.

1042 Additionally the National Defense Committee is a founding member of the  
1043 Alliance On Overseas Voting Rights, an umbrella organization of more than 25 military  
1044 veterans and overseas citizen or voting reform advocacy organizations committed to  
1045 substantial voting reform in military and overseas voting processes. Many of their  
1046 representatives are here today and I believe they join me in applauding the committee for  
1047 holding this hearing.

1048 I personally became involved in the National Defense Committee in 2006 after my  
1049 mobilization to the U.S. Navy Reserves just prior to the 2004 general election. Being  
1050 mobilized two weeks prior to the election, I was unable to apply for an absentee ballot at  
1051 my new delivery address and it was only by my taking leave at my mobilization  
1052 preparation site, flying back at my own expense to New York City and voting in person,  
1053 was I able to guarantee my right to vote.

1054           My circumstances are by no means unique. Analysis of the 2006 election shows a  
1055 significant systematic inability of military personnel to successfully cast their absentee  
1056 ballots.

1057           For example, while more than 85 percent of all absentee ballots were cast by the  
1058 general voting population in 2006, only 26 percent of the absentee ballots requested by  
1059 military personnel were successfully cast that year. That translates into 484,000 military  
1060 voters who requested absentee ballots but did not successfully cast them.

1061           Let me restate that. Military voters representing more than a third of the military  
1062 asked for a ballot in 2006 and did not successfully cast them.

1063           A close analysis of that data is clear and unequivocal as to the most significant  
1064 cause for this voting failure. States send out their ballots too late for military voters and  
1065 postal mail delivery is not and cannot ever be quick enough to deliver and return those  
1066 ballots in time to meet the absentee ballot return deadlines.

1067           The predominant absentee balloting system used for decades in this country,  
1068 sending ballots 30 to 45 days prior to an election by postal mail, was designed for sending  
1069 ballots across town to local voters not across continents and oceans to far flung, deployed  
1070 military personnel.

1071           Even after seven years operating in Afghanistan and five years operating in Iraq,  
1072 the Military Postal System Agency tells military voters that their ballots needed to be back  
1073 in the mail from these two countries at least 28 days prior to the 2008 election date,  
1074 implying a 56-day turnaround for military mail.

1075           For other overseas military voters, the Military Postal System Agency  
1076 recommended no less than 21 days to return to the states, implying a 42-day turnaround.

1077           In January of this year the PEW Center on the States released a ground breaking  
1078 study entitled "no time to vote" which found postal mail delivery delays and tight ballot  
1079 return deadlines to be the key elements in whether or not overseas military votes could  
1080 successfully complete the absentee balloting process.

1081           In all, PEW found 23 states do not provide enough time for overseas military voters  
1082 to successfully cast a private ballot.

1083           For example, because no stage in the New York military voting process can be  
1084 conducted by electronic means, New York's overseas military voters require 82 days to  
1085 navigate the absentee process, but they are only given 69 days to do so. For Utah, 88 days

1086 are required, but only 70 days are provided.

1087 Because of this, PEW concludes if voters from these "no time to vote" jurisdictions  
1088 actually succeeded in voting, they managed to do despite their state's policies and practices,  
1089 not because of them.

1090 Now, the Overseas Vote Foundation 2008 survey also found that 52 percent of  
1091 those surveyed either received their ballot too late to return them on time or never received  
1092 them at all.

1093 The National Defense Committee applauds the committee for holding this hearing.  
1094 We note, however, that this is the sixth congressional hearing in which National Defense  
1095 Committee members have either testified or submitted statements on military voting since  
1096 2004 and we know of at least three others in that same period. At each hearing witnesses  
1097 like us tells senators and representatives the same thing I have today.

1098 And it is scary that these comments closely mirrored those of President Truman in a  
1099 letter he wrote in 1952 to the House of Representatives on exactly that these same  
1100 problems, late ballot delivery, slow mail delivery.

1101 Frankly, little has been done to address these issues despite the consistent, repeated,  
1102 and passionate description of the problem. We implore you to go beyond the problem  
1103 exploration stage and pass federal legislation this year to overcome these tight ballot  
1104 deadlines and slow mail delivery.

1105 We do applaud you holding this hearing today. It is important that we hold this  
1106 especially in an odd number year, but we really need to start addressing this issue at the  
1107 federal and state level in order to be able to make these changes permanent.

1108 Thank you. I stand by for your questions.

1109 [The prepared statement of Mr. Carey follows:]

1110 **Chairman Schumer.** I want to thank all five witnesses for excellent testimony.

1111 My first question is to the whole panel, particularly Ms. Hollarn and then Mr. Carey  
1112 both of whom explicitly pointed out, you all did really, the problem, much of the problem  
1113 does reside with the states, the differing systems each one has, the fact that they are not too  
1114 quick to get out the ballots, et cetera.

1115 And of course, our power over the states on local electoral matters is rather limited.

1116 If you could make two or three suggestions as to how we importune the states to do  
1117 a better job here, what would they be?

1118 I am first going to ask Ms. Hollarn, then Mr. Carey and then the other witnesses.

1119 **Ms. Hollarn.** I think that if you are looking at the actual casting of a ballot, the  
1120 absentee ballot process, there are some states that still have cumbersome means where  
1121 someone has to go through forms in the mail to request the ballot. If some just sends an  
1122 e-mail or telephones or even sends something written, then they are sent the form to make  
1123 the request, but that kind of excess paper and time wasting has a great deal to do with it.  
1124 Without mentioning names, I know of three states that have procedures like that.

1125 So where we have the federal postcard application and that in itself needs serious  
1126 revision because nobody reads the four point typed instruction to start with and it is also not  
1127 written in a voter friendly manner. There is no explanation for some of the questions or  
1128 anything like that. though. that I think are sufficient.

1129 So the paperwork can be reduced where I think there can be a uniform procedure  
1130 for ballots being requested which eliminates some of it, but UOCAVA already addresses  
1131 that to a degree.

1132 **Chairman Schumer.** Yes, with some success but not great success.

1133 **Ms. Hollarn.** I think a lot of it has to do with the enforcement. There are issues  
1134 with the National Voter Registration Act that have to do with taking people off the rolls  
1135 that are what I consider a total violation of NVRA and I have been exposed to them  
1136 recently. So there is not very much follow-up by enforcement procedures and there is not  
1137 consistent follow-up.

1138 **Chairman Schumer.** Ms. Hollarn, if a state has just an inherently cumbersome  
1139 process form, new form, et cetera, is there any way we can force them to change that  
1140 process at least for federal elections or at least for military voters or overseas voters or  
1141 both?

1142 **Ms. Hollarn.** I think there can be some specific action taken in the revision of  
1143 UOCAVA that would implement that. For instance, the federal post card application  
1144 essentially is good. At least having it electronically available, that is one thing; and they  
1145 have simplified some of the form and the instruction in that process.

1146 The fact of the matter is this opens up a black hole of problems with voting  
1147 assistance officers and the things that perhaps the bureaucracy thinks are being done that  
1148 are not being done; and so I think the simplification of requesting a ballot--you know, one  
1149 of the things that is very poorly understood, very little understood is the ballot.

1150           There seems to be often too often acceptance of the fact of “give me a ballot.”  
1151       Well, there are ballot styles that are dependent on the jurisdictions in which you are eligible  
1152       to vote so we end up with a huge complexity of what ballot to offer the person, and the  
1153       federal write-in ballot goes a long way to solving that problem and then there are states that  
1154       have write-in ballots as well. Florida does, has a state write-in ballot.

1155           **Chairman Schumer.** Do you think if we forced the states to change the way they  
1156       set up absentee ballot procedures for federal elections, they would then match it for their  
1157       local elections?

1158           **Ms. Hollarn.** That has been the way, it starts out that way. I have to say, Florida  
1159       is exceptional not just because I live there but it is because of the cooperative effort we  
1160       have had in working, local election officials working with the state as well to not only pass  
1161       conforming legislation but to reach out even beyond that and provide for even more than  
1162       the federal legislation.

1163           Perhaps we are not talking about enforcement where you are going to put your  
1164       hands around the states' throats. Education is the key and this is where the Federal Voting  
1165       Assistance Program--I think it starts with some specific measures in revising UOCAVA  
1166       but then it goes to the education process with both the Federal Voting Assistance Program  
1167       and the states.

1168           One of the reason though I continue to work past this so-called retirement that I  
1169       entered is the education of election officials across the country in understanding the federal  
1170       law and implementing it, and that is where I think the problem basically lies which is  
1171       preferable to actual enforcement.

1172           **Chairman Schumer.** Mr. Carey. The same question.

1173           **Mr. Carey.** Mr. Chairman, actually I would say that Congress's constitutional  
1174       authority to impose upon the states is pretty much unlimited. The Constitution gives the  
1175       states the first right to determine the method of election but allows Congress to impose that.  
1176       UOCAVA itself is a limited imposition by the Federal Government on the states of  
1177       procedures for military and overseas voting.

1178           **Chairman Schumer.** So you think we could pass a law on, let us say, how to treat  
1179       military voters say, require separately, or overseas voters, I guess we do it for everybody,  
1180       separate from other absentee ballot procedures.

1181           **Mr. Carey.** Yes, sir.

1182           **Chairman Schumer.** And would that apply to local elections and to state  
1183 elections?

1184           **Mr. Carey.** It would not be able to be federally mandated to apply at this stage.  
1185 You could, but at this stage it does not.

1186           **Chairman Schumer.** We could not do that and so the question is: Do we create  
1187 more confusion by having two separate procedures?

1188           **Mr. Carey.** I think the state and local elections will always follow on the same  
1189 dates as the federal election so anything you do on the federal elections will necessarily  
1190 capture the state and local election.

1191           **Chairman Schumer.** Do most of you agree with that, Mr. Palmer, DeCaro,  
1192 Eversole, that if we did it, first, should we do it, and if we did it, would the states follow  
1193 with their local? I mean, it is a big question. I would like to do it. You know me.

1194           **Mr. Palmer.** Mr. Chairman, I think that my impression with other state election  
1195 officials is that they feel that these voters are their voters and they want to provide their  
1196 ballot to their voters. I think that there needs to be some leadership at FVAP and the  
1197 Congress to develop a system of that ballot style, to provide that ballot to the men and  
1198 women overseas and that is increased technology, it has increased resources, and it is  
1199 leadership at the Federal Voting Assistance Program.

1200           It will need more resources to make it happen, but I can tell you that the ground  
1201 swells of support among state election officials is that they want these voters. They feel  
1202 that they are their voters. They will take care of them. We have to provide, I guess on a  
1203 federal level and when I say we, the federal level needs to provide the resources and the  
1204 ability for that to happen and I think only technology will do it because we have been  
1205 dealing with "snail mail" for the last 60 years.

1206           **Chairman Schumer.** Anything to add either of the other two panelists?

1207           **Mr. Eversole.** I do. I do have some concerns about the Federal Government  
1208 coming in and overriding all the states laws with respect to verifying their voters and  
1209 assuring that the state procedures for determining residency and those types of things are  
1210 actually enforced.

1211           From my perspective, the area where the Federal Government can come in and  
1212 make a big difference is mandating 45 days. UOCAVA currently is unclear with that  
1213 regard. Mandating 45 days obviously is a mandate to the states, but it has caused some

1214 problems in litigation. It caused some problems in New York recently, in New York 20th.  
1215 It caused some problems in Virginia. So that mandate would be helpful.

1216 Where I start to have some concerns is where you go in and override the state  
1217 procedures for ensuring that the balloting, the state law is followed. And as far as I can  
1218 tell, at least on the states I have checked, the rejection rate for military votes that are  
1219 returned is really no different than the rejection rate for absentee ballots in the same state.

1220 For example, in Florida the military rejection rate for returned ballots was one  
1221 percent, for military. It was one percent for regular absentee ballots.

1222 **Chairman Schumer.** Do you have anything to add, Colonel? You do not have  
1223 to, only if you want.

1224 **Lt. Colonel DeCaro.** Yes, sir. The only thing I would comment on is the  
1225 standardization for the military members. We are not from the same state. Even the  
1226 same unit deploys with various states; and if you have numerous procedures to follow, you  
1227 cannot possibly expect an additional duty voting assistance officer to be anything but a  
1228 conduit for information. And if he cannot speak, he cannot speak.

1229 **Chairman Schumer.** Now, let us go to the federal level where we have much  
1230 more of sort of a complete say. All of you have touched on various problems that are at  
1231 the federal level that we can do a lot more about. So I am going to ask each of you this  
1232 question. This will be my last because my time has gone over and I want to give Saxby  
1233 time.

1234 If we could do one thing at the federal level, forgetting the states right now, but just  
1235 one thing at the federal level, FVAP, what would you have us do to make it easier for our  
1236 soldiers overseas to vote?

1237 We will start with Mr. Carey and work our way that way.

1238 **Mr. Carey.** Only one. Mandate the ballots be sent out least 60 days before they  
1239 are due.

1240 **Mr. Eversole.** My one recommendation would be to implement what FVAP has  
1241 refused to which is radical change in the registration and the absentee ballot request  
1242 process. I think certain offices at DOD have to be designated voter registration agencies  
1243 under section 7 in NVRA.

1244 **Chairman Schumer.** Thank you.

1245 Colonel DeCaro.

1246           **Lt. Colonel DeCaro.** Sir, I would recommend that there is a way to leverage  
1247 existing technology we have, i.e., the common access card that all military members have  
1248 to use just to log in to an unclassified network, if it is possible to use something like that  
1249 because we all have it regardless of location.

1250           **Chairman Schumer.** Good idea.

1251           Mr. Palmer.

1252           **Mr. Palmer.** Sort of related to that, I think there should be dedicated HAVA  
1253 monies to sort of put pilot projects on the horizon to give states the ability to do this.  
1254 There are demands and pressures on the HAVA dollars, local and state. And so if there is  
1255 dedicated moneys for overseas and military participation, states will experiment.

1256           **Chairman Schumer.** And Ms. Hollarn.

1257           **Ms. Hollarn.** They have said it.

1258           **Chairman Schumer.** I know. But the good news is, none of the four are  
1259 contradictory.

1260           **Ms. Hollarn.** Right. And I would say, all of the above.

1261           My concern is something that I am not sure how it is solved, but it does have to be  
1262 solved on the federal level, and that is the fact that there is a disconnect between the Federal  
1263 Voting Assistance Program or even the intent of Congress and what happens in the field,  
1264 and that is caused a great deal by the Hatch Act.

1265           In other words, we have the misunderstanding of the difference between campaigns  
1266 and running for office and election administration.

1267           **Chairman Schumer.** And voting.

1268           **Ms. Hollarn.** Yes. The voting is the connection between the two, but what you  
1269 have is the fact that the VAOs are often very very restricted by commanders and the fact is  
1270 that commanders are very unwilling to allow certain things be done because of the nature  
1271 of the Hatch Act.

1272           **Chairman Schumer.** Right.

1273           **Ms. Hollarn.** Which is very very much—

1274           **Chairman Schumer.** That is an education issue as much as anything else.

1275           **Ms. Hollarn.** Yes, it is. So that is the only think I could add.

1276           **Chairman Schumer.** Good answers. Thank you.

1277           I thank the witnesses and now I am going to call on Senator Chambliss.



1278           **Senator Chambliss.** Thanks, Mr. Chairman. There seems to be general  
1279 agreement that the 30 days that DOJ has mandated for sending out of ballots too short.  
1280 Frankly, I like your idea, Mr. Carey, of 60 days but I see a practical problem.

1281           Florida has, as I recall, a September primary. New York has a September primary.  
1282 What do we do with respect to states like that that have those late primaries and I may be  
1283 wrong, but I was thinking Florida had a September primary.

1284           **Ms. Hollarn.** Well, ours was recently changed to ten weeks before the general  
1285 election which right now is occurring the week before Labor Day. So basically we have  
1286 only had that once and it was the last week in August, but the ten weeks would come out to  
1287 be before Labor Day.

1288           **Senator Chambliss.** Still pretty--

1289           **Ms. Hollarn.** Actually the process, the only thing that holds up any ballots in  
1290 Florida now with more than enough time is litigation by candidates that have some issue  
1291 with the certification of the ballot.

1292           As a matter of fact, in the last general election year, I got my ballots out probably  
1293 like in 51, 52 days before the election and there were members of Congress that questioned  
1294 whether I telling the truth or not, but yes, it was so.

1295           I think the Florida election schedule, especially since we have eliminated the  
1296 second primary, does allow sufficient time, and it is when litigation holds up the  
1297 certification of a ballot that has caused any problem.

1298           **Senator Chambliss.** Mr. Carey, you were going to say something there?

1299           **Mr. Carey.** New York is a leader among states in allowing an extended period of  
1300 time after the election for the ballot to be returned, up to 14 days. So the 60 days can be  
1301 met if you allow the ballots to be returned after the election, but it is that 60-day turnaround  
1302 that is critical.

1303           **Senator Chambliss.** Was Florida's change because of there not being enough  
1304 time there? Do you all have any independent knowledge of that?

1305           **Ms. Hollarn.** The Florida Supervisors of Elections have lobbied for years to  
1306 eliminate the second primary and it was basically a surprise gift that happened in 2002 that  
1307 we had a temporary suspension of it, but then we had a final elimination of it and we have  
1308 been under a consent order in Florida since 1982 since there was litigation back then about  
1309 the three elections in nine weeks that made every ballot for every election be impossible to

1310 reach them so the consent order included that we had to count absentee ballots for ten days,  
1311 from overseas for ten days after the election as long as they were dated or postmarked by  
1312 election day.

1313 And the reason that it was finally dropped was to make the election schedule more  
1314 preferable in hopes that we could get Justice to eliminate the consent decree.

1315 **Senator Chambliss.** Mr. Palmer, you mentioned that your Secretary of State  
1316 heard from a lot of soldiers during his visit abroad that they wanted to return voted ballots  
1317 by electronic mail. Now, in Georgia we have a photo ID requirement. I think in Florida  
1318 you all had just implemented that or you are in the process of doing so.

1319 How do you see this playing in from a practical stand point with relevance to  
1320 security of that vote?

1321 **Mr. Palmer.** Well, for absentee ballots obviously the individual goes through a  
1322 verification process, but on all absentee ballots basically they will be comparing the  
1323 signature to the signature on file at the local office. So there would not be a photo ID at  
1324 the polls. So that is how that situation is remedied.

1325 **Senator Chambliss.** What about the actual verification requirement? Is there  
1326 anything other than matching the signature from the electronic vote?

1327 **Ms. Hollarn.** Perhaps because I had the firsthand experience at it, Florida also  
1328 has a law that was in place for commerce about accepting digital signatures. There is a  
1329 difference between digitized and digital. And in the pilot project that we did, that is  
1330 exactly what we used and they were all verified registered voters in order to obtain the  
1331 ballot to start with.

1332 And so in the absentee process, the only thing that is required is the signatures so  
1333 those are all matched. But in the pilot project that we did, there was real time verification  
1334 of the voter by entering certain information of the voter because in the kiosk environment,  
1335 the voter registration is real time. Verification is real time so electronically I might say in  
1336 a very broad sense, all things are possible in verifying a voter when you are looking at the  
1337 kiosk situation, not from a personal computer, but from the kiosk situation. And although  
1338 I have restrained myself for years from using the analogy to ATMs, I think visually that is  
1339 the one way. Because now that we have done the kiosk process, there is a way to harden  
1340 the voting process into something that would be similar to an ATM.

1341 **Senator Chambliss.** What was your kiosk experience from the standpoint of

1342 taking some of those abroad and letting soldiers vote that way?

1343 **Ms. Hollarn.** Well, we had 100 percent enthusiasm and support from all of the  
1344 voters and dismay from those who could not participate, but of course it was limited to our  
1345 county because no one else wanted to participate. But the fact is what we did was, first of  
1346 all, a pilot project so it required human observation because everything had to be  
1347 documented and there had to be evidence of how this took place.

1348 So it was, I think, and you have to understand that the process that we used is in  
1349 operation in other parts of the world as well with the particular kind of system that we used  
1350 and so it was 100 percent successful both from the electronic standpoint and from the voter  
1351 standpoint.

1352 And we visualized, those of us who are still involved in it, with taking this to  
1353 another level with multiple states participating and in a combat zone, but of course this is  
1354 the point where I have to say that I do not want federal funds and now the only way to do it  
1355 is with federal funds, but it is for the federally covered voters of UOCAVA that we are  
1356 talking about.

1357 So there are all kinds of possibilities and you have heard the word "electronic"  
1358 mentioned over and over again and I realize there are two sides to that story but my side  
1359 listens to the other side and now we would like others to listen to our side.

1360 **Senator Chambliss.** Lieutenant Colonel DeCaro, you are to be commended for  
1361 being as vigilant as you were in making sure that your vote counted. How many E2s or  
1362 E3s are going to follow the same procedure that you did and be as diligent as you were to  
1363 get their vote counted in any election?

1364 **Lt. Colonel DeCaro.** Sir, I cannot give you an empirical number, but I would  
1365 hazard to guess very few. A very few would probably have the opportunity or just the  
1366 wherewithal to say, I need to research this. I tie back to a voting assistance officer that is  
1367 only as effective as he is to get the message out. You go to large organizations with a high  
1368 operations tempo and that is just not going to happen. I will tell you right now, it will not  
1369 be a focus.

1370 As I said in my testimony, the mission is going to be the focus. It may be the  
1371 smattering of an e-mail that goes out or a face-to-face conversation, but when you are in  
1372 Iraq or Afghanistan or some other deployed location, it will not be visible.

1373           **Senator Chambliss.** We have got an electronic voting method in Georgia that  
1374 can be used. Frankly, I do not know how successful it was because we have not gotten the  
1375 numbers from this year.

1376           But if that were available, do you think that there is the motivation on the part of the  
1377 leadership in the military to try to make sure that the folks that are serving under them do  
1378 cast their ballot or is it going to have to be an individual motivation factor that gets them to  
1379 vote?

1380           **Lt. Colonel DeCaro.** Well, sir, it is going to be both. A commander cannot  
1381 order an individual to go and cast the ballot, but he can definitely make that time available.  
1382 Guys have opportunity to go to the chow hall. They have the opportunity to go to the  
1383 exchange when they are down range. If these kiosks are brought to those common access  
1384 locations, there is no reason at all members, as long as you are not at a forward base without  
1385 that capability, would have an inability to cast the ballot.

1386           **Senator Chambliss.** Go ahead, Mr. Chairman. I may have one more.

1387           **Mr. Carey.** Senator, you did have a question about the E1 and E3 and we have  
1388 some data on that as well. We can forward it on to your office, but the fact of the matter is  
1389 that the E1s through E3s have a substantially higher rate of disenfranchisement than the  
1390 rest of the military and a substantially higher rate of inability to get the ballots than the rest  
1391 of the military.

1392           **Chairman Schumer.** We will ask you to submit that in writing just whatever  
1393 information you have and we will add it to the record.

1394           **Senator Chambliss.** I did have one more, Mr. Carey. I am not picking on New  
1395 York, but you used them as an example of being forward thinking with regard to that time  
1396 framing, but apparently they do not have, New York does not have any electronic means  
1397 for voting.

1398           Has there been any effort by the legislature there to deal with this or is it too hot to  
1399 discuss in the New York legislature?

1400           **Mr. Carey.** I am not sure about any initiatives at the state level. Maybe some of  
1401 the other panelists has some information about the state legislative initiatives. I do know  
1402 that in New York has had a number of broader issues regarding some of the  
1403 implementation of Help America Vote Act and they have some policy differences with the  
1404 Federal Government on that.

1405 But you are right. They do not allow any part of the process, absentee ballot  
1406 application, registration, absentee ballot receipt or transmittal to be done by any electronic  
1407 means, fax or e-mail. And so the result is that it takes a really long time to navigate the  
1408 New York overseas absentee voting process, upwards of 89 days when only about 70 are  
1409 provided.

1410 **Senator Chambliss.** I will speak to the Senator from New York about that.

1411 [Laughter.]

1412 **Mr. Carey.** At this stage that is a state-level issue. It could be overcome by  
1413 federal action, but at this point, it is a state-level issue.

1414 **Senator Chambliss.** Mr. Chairman, it has been fascinating and I would say that it  
1415 has been encouraging, but I think it has been a little discouraging in some respects, but I  
1416 will have to say that I want to commend all of you all for really keeping this issue moving  
1417 and for you folks at the local level, Ms. Hollarn, Mr. Palmer, thank you for your endurance  
1418 and your perseverance in trying to make sure that the folks that are your constituents are  
1419 having the opportunity to vote, military or otherwise, but we have got some real issue, Mr.  
1420 Chairman, to deal with, but this has been an excellent hearing.

1421 Thank you for holding this hearing and thank you all for testifying.

1422 **Chairman Schumer.** Well, first, let me thank you, Senator Chambliss, for your  
1423 interest in this issue which did not begin at this hearing for sure.

1424 I want to thank each of the witnesses. Very good testimony. I agree, New York,  
1425 we were the last to comply with HAVA. We still have even in terms of voting we have  
1426 those old voting machines. They have run out of parts. They cannot get the parts for  
1427 them. And they have to cannibalize existing machines to do the parts. It is not a record  
1428 that any New Yorker can be proud of in terms of how the State has been lagging behind not  
1429 just in overseas voting and military voting but in the whole process.

1430 Having said that, I think the testimony has been excellent. There are a number of  
1431 areas where legislation could improve the process for the voters as well as the stakeholders  
1432 and I pledge myself to work with the minority, try to come up with a bipartisan bill. This  
1433 is one that there should not be any divisions in terms of ideology or anything else and I  
1434 think we can get this done in a bipartisan manner this year and we are going to be working  
1435 with you, Saxby, with Ben Nelson and with Bob Bennett, our ranking member, to try and  
1436 come up with something.

1437           So I want to thank our witnesses for testifying. It was great testimony as Saxby  
1438 said and thank all of you for your service in one way or another and many of you for you or  
1439 your spouse's military service as well.

1440           The committee has received a number of statements for the hearing record.  
1441 Without objection, I ask that these statements be submitted for the record.

1442           [The information follows:]

1443           / COMMITTEE INSERT

1444           **Chairman Schumer.** The record will be open for five business days for  
1445 additional statements for members and the public. And if the witnesses have no objection,  
1446 I will also have the record remain open for five days for additional questions for other  
1447 members of the panel who may want to submit them to you if that is okay with all of you.

1448           Since there is no further business, the committee is adjourned in the hopes that both  
1449 we can get something done and thanks for the witnesses today.

1450           [Whereupon, at 12.17 p.m., the Committee was adjourned.]